

### REMARKS

The specification has been amended to correct a clerical error. Specifically, the amendment replaces the chemical structure shown for compound number 9 with the structure that corresponds to the compound 9 name shown. The inserted structure was generated using Chemdraw Ultra v. 9.0. The inserted structure also corresponds to the [M+H]<sup>+</sup> value provided for compound 9. The deleted structure is the same as that of compound 22 on page 183 and corresponds to the [M+H]<sup>+</sup> value for that compound.

Claims 17-20 have been cancelled as a result of the restriction requirement. Claims 1, 11, and 21 have been amended to read on the elected group. The claim amendments and cancellations are made without prejudice to the filing of continuation and/or divisional applications. Claims 12-16 have been withdrawn. Pursuant to MPEP 821.04, Applicants reserve the right to rejoin claims 12-16 (process claims) once the product claims are found allowable. With the foregoing amendments, claims 1-11 and 21-22 are pending, and claims 12-16 are withdrawn. No new matter is added by way of the amendments.

In the restriction requirement of February 14, 2005, the office differentiates between non-heterocyclic compounds (group I) and heterocyclic compounds (group II). Based on a telephone discussion between Examiner Kumar and Applicants' representative Bradley Crawford, Applicants believe that the Office is using the term "heterocyclic" to encompass both saturated and unsaturated ring systems (including heteroaryl groups). Thus, Applicants believe that the present claim amendments are fully consistent with the restriction requirement.

The Applicants respectfully draw the Examiner's attention to the following of Applicants' U.S. patent applications and patent:

| Serial No. | U.S. Pre-Grant Publication or Patent Number |
|------------|---|
| 09/895,871 | 2003-0096864-A1                             |
| 09/895,843 | 6,846,813                                   |
| 09/896,874 | 2002-0016320-A1                             |
| 09/896,139 | 2002-0128255-A1                             |

These documents may be material to the Examiner's consideration of the currently pending claims. Applicants submit that their listing of these documents is not a representation that the references have effective dates early enough to be "prior art" within the meaning of 35 U.S.C. § 102.

#### **Double Patenting Rejection**

Claims 1-11, 21 and 22, in part, stand provisionally rejected under the judicially created doctrine of obviousness type double patenting over claims 1-346 of copending Application No. 10/291,318. The Office contends that the conflicting claims are not patentably distinct. Applicants respectfully disagree.

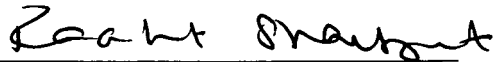
Applicants submit that the structures of the compounds claimed in the present application and the compounds of the '318 application are sufficiently different that they cannot reasonably be considered patentably indistinct. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

Applicants urge the Examiner to contact the Applicants' undersigned representative at (312) 913-0001 if

he believes that a discussion would expedite prosecution of this application.

Respectfully submitted,  
**McDonnell Boehnen**  
**Hulbert & Berghoff LLP**

Dated: October 24, 2005

By:   
Raafat Shaltout  
Reg. No. 45,092

McDonnell Boehnen  
Hulbert & Berghoff LLP  
300 South Wacker Drive  
Chicago, Illinois 60606  
(312) 913-0001